BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

BYRON L. GOTTSCHALK Claimant	}
VS.)))))))
OLSTEN STAFFING SERVICES Respondent) Docket No. 193,709
AND	
HARTFORD ACCIDENT & INDEMNITY Insurance Carrier	}

ORDER

Claimant appeals from a Preliminary Order dated December 9, 1994. The Order denied claimant's request for temporary total disability and medical benefits.

ISSUES

Claimant contends that the issue on appeal is whether the injury arose out of the course of employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the memoranda submitted by the parties, the Appeals Board finds that the appeal should be remanded with direction that the Administrative Law Judge state the basis for denial of benefits.

The Appeals Board has jurisdiction to review preliminary orders only when it is alleged that the Administrative Law Judge has exceeded his or her jurisdiction. See K.S.A. 44-551. The specific issues subject to review on appeal from a preliminary order are listed in K.S.A. 44-534a. Among the issues there listed is the issue asserted by claimant in this appeal, namely, whether the injury arose out of and in the course of the claimant's employment. The claimant argues that the decision denying benefits is based upon a finding that the injury did not arise out of and in the course of employment because all other issues are either admitted or the evidence is uncontroverted. From our review of the record, however, it does not appear that this is the only possible basis for the Administrative Law Judge's decision. It remains possible that the Administrative Law Judge denied benefits because he found that claimant had not established a need for

IT IS SO OPPEDED

additional medical treatment. If that were the finding, the Appeals Board would not have jurisdiction to review the decision. Because of this uncertainty, we are remanding the claim for direction from the Administrative Law Judge and his statement as to the basis for denying benefits. This statement should be sufficiently specific to allow the Appeals Board to determine whether it has jurisdiction to review the decision on appeal.

IT IS THEREFORE ORDERED that this claim should be, and the same is hereby, remanded with direction that the Administrative Law Judge state the basis or finding upon which the benefits were denied.

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Dated this day of Fe	ebruary, 1995.	
	BOARD MEMBER	
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	BOARD MEMBER	

c: John J. Bryan, Topeka, KS Ronald J. Laskowski, Topeka, KS James R. Ward, Administrative Law Judge George Gomez, Director